

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

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COMPLETE TITLE OF CASE:

CITY OF COLUMBIA

Appellant

v.

KENNETH HENDERSON

Respondent

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DOCKET NUMBER WD75559

DATE: May 21, 2013

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Appeal From:

Circuit Court of Boone County, MO  
The Honorable Gary M. Oxenhandler, Judge

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Appellate Judges:

Division One  
Gary D. Witt, P.J., Thomas H. Newton, and Mark D. Pfeiffer, JJ.

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Attorneys:

Robert Rinck, Columbia, MO

Counsel for Appellant

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Attorneys:

Kevin O'Brien, Columbia, MO

Counsel for Respondent

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**MISSOURI APPELLATE COURT OPINION SUMMARY**  
**MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**City of Columbia, Appellant, v.  
Kenneth Henderson, Respondent.**

**WD75559**

**Boone County**

Before Division One Judges: Witt, P.J., Newton, and Pfeiffer, JJ.

The City charged Henderson in municipal court with two counts of failing to comply with the City's dangerous exotic animal ordinance by keeping two alligators in Columbia. Henderson was convicted and sentenced to pay a fine. Henderson sought trial *de novo* in the circuit court and subsequently moved to dismiss the charges. The trial court determined that the alligators were not within the city ordinance's definition of exotic animals and granted Henderson's motion. The City appeals.

**REVERSED AND REMANDED.**

**Division One Holds:**

On appeal, the City contends the trial court erred in finding the City's dangerous exotic animal ordinance, section 5-29, unconstitutionally vague because the ordinance unambiguously bars the keeping of dangerous reptiles within city limits and a person of ordinary intelligence would understand that the ordinance proscribes the keeping of dangerous reptiles within city limits. Henderson responds that the trial court did not find the ordinance unconstitutionally vague, but rather found that the plain language of section 5-29 does not apply to alligators. Henderson is correct that the trial court did not declare section 5-29 unconstitutional. Rather, the trial court dismissed the case based on its determination that alligators were not barred by section 5-29.

When interpreting a city ordinance, we follow the same rules that are applied to interpreting a statute. We look to the plain and ordinary language used in the ordinance to determine the legislative intent. By its plain language, section 5-29 barred "dangerous exotic animals," and enumerated a specific list. The ordinance did not define "dangerous," but did define "exotic animals" in section 5-1. The trial court did not err in determining the alligators did not fall within section 5-1's definition of "exotic animals."

Notwithstanding, we agree with the City that even if alligators were not "exotic animals" under section 5-1 and, therefore, were not "dangerous exotic animals" barred by section 5-29, the plain language of section 5-29 further barred "deadly dangerous or venomous reptiles."

Consequently, the trial court erred in finding as a matter of law that section 5-29 could not apply to alligators and in granting Henderson's motion to dismiss. At trial, the City should

be given the opportunity to prove as a factual matter whether alligators are deadly or dangerous reptiles. Therefore, we reverse the trial court's motion to dismiss and remand for further proceedings.

Opinion by Thomas H. Newton, Judge

May 21, 2013

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